

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Steven & Marjorie Kennell,**  
Petitioners-Appellants,

v.

**Linn County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 11-57-0199**  
**Parcel No. 11212-01008-00000**

On February 24, 2012, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioners-Appellants Steven and Marjorie Kennell requested their appeal be considered without a hearing and submitted evidence in support of their petition. They are represented by attorney Cynthia A. M. Parker of Lynch Dallas, PC in Cedar Rapids, Iowa. Assistant County Attorney Gary Jarvis represents the Board of Review. Assessor Julie M. Kester submitted evidence in support of its position. The Appeal Board now having examined the entire record and being fully advised, finds:

***Findings of Fact***

Steven and Marjorie Kennell, owners of property located at 375 Woodland Drive, Robins, Iowa, appeal from the Linn County Board of Review decision reassessing their property. According to the property record card, the subject property consists of a one-story, frame dwelling having 2323 total square feet of living area, and a full basement with 1730 square feet of finish. Amenities include 203 square-foot and 128 square-foot open porches and a 1077 square-foot, three-car-attached garage. Additionally, the parcel is improved by an 800 square-foot, in-ground, swimming pool, 1728 square

feet of patio, and a 108 square-foot shed. The dwelling was built in 2009 and has a 1+10 quality grade. It is situated on 0.750 acres.

The real estate was classified as residential on the initial assessment of January 1, 2011, and valued at \$543,346, representing \$21,646 in land value and \$521,700 in dwelling value.

Kennells protested to the Board of Review on the grounds the property's assessment is not equitable compared to the assessments of like properties in the taxing jurisdiction under Iowa Code section 441.37(1)(a) and the property is assessed for more than authorized by law under section 441.37(1)(b). The Board of Review denied the protest.

Kennells then filed their appeal with this Board on the same grounds. They seek an assessed value of \$400,000, allocated \$21,646 to land value and \$378,354 in dwelling value.

Kennells submitted a comparative market analysis (Exhibit 2) prepared by Coldwell Banker realtor Diane Gallagher in July 2011. Gallagher's analysis included seven sales and three listings of ranch-style homes in Robins, which she deems similar to the subject property. Two of the properties sold in the last quarter of 2010 and were more similar to the subject. The first, 815 Hemlock Court (Exhibit 3), has 2167 total square feet of living area. It sold in October 2010 for \$360,000, or \$166.13 per square foot while it was assessed for \$410,690. The 2011 assessment of this property was subsequently reduced to \$360,268. The second property located at 830 Woodland Drive in Robins (Exhibit 4) sold in January 2011<sup>1</sup> for \$375,000 or \$180.29 per square foot while it was assessed at \$373,774. Kennells noted the 2011 sale price was \$5000 lower than the 2008 purchase price of this property. Gallagher estimated the in-ground swimming pool contributed \$5000 to the market value of the subject property. She adjusted the sales for differences in gross living area, bath count, fireplaces, and pool/landscaping. Based on her analysis, Gallagher recommended a list price of \$395,646 for the subject property. The properties, except 805 Juniper, have three-car garages and sites of

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<sup>1</sup> The sale date for 830 Woodland Drive in the appraisal is listed as February 4, 2011.

approximately one-third acre. The median adjusted sale price per square foot was \$174.84 and the average adjusted price per square foot was \$175.03. The following chart summarizes the comparable sale data.

Address	Yr Built	TSFLA	SF Base Fin	Sale Date	Sale Price	\$SPSF	Adjusted Sale Price	Adjusted SPSF
Subject	2009	2323	1730					
805 Juniper	2007	1560	1135	3/31/2010	\$ 245,000	\$ 157.05	\$ 283,736	\$ 181.88
870 Hemlock	2004	1773	1773	10/15/2010	\$ 269,000	\$ 151.72	\$ 293,650	\$ 165.62
835 White Pine	2008	1930	1100	12/28/2010	\$ 313,000	\$ 162.18	\$ 337,446	\$ 174.84
850 White Pine	2009	1932	1400	1/15/2010	\$ 355,000	\$ 183.75	\$ 371,902	\$ 192.50
815 Hemlock	2005	2167	1725	10/14/2010	\$ 360,000	\$ 166.13	\$ 369,932	\$ 170.71
830 Woodland	2007	2080	1500	2/4/2011	\$ 375,000	\$ 180.29	\$ 390,646	\$ 187.81
875 Leslie	2005	1820	1000	6/22/2010	\$ 249,950	\$ 137.34	\$ 276,316	\$ 151.82

We note all the comparables have less total square feet of living area than the subject property. We give more consideration to Gallagher's analysis than other sales data submitted because the dwellings were similar in location, age, style, and basement finish. Gallagher's summary reports the sale properties are comparable to the subject property. Additionally, the sales were recent and the sale prices were adjusted.

Kennells submitted a copy of the April 2009 construction contract (Exhibit 5) for the subject property in the amount of \$389,850 and suggests this price equates to a \$167.82 value per square. We note the contract excluded the lot value and pool, which had already been purchased by the Kennells for \$71,500. This additional amount increased the cost to \$461,350, or \$198.60 per square foot.

Kennells also offered a list of ranch-style neighborhood properties ranking them by assessment. They calculated the assessments range of \$134.22 to \$202.65 per square foot, with the subject property assessment of \$233.90 per square foot being well above the higher end of the range. We place little emphasis on this comparison because no adjustments were made for differences in construction

quality, age, amenities, site and other features and no market value evidence was provided for an equity analysis.

Joe Baldrige, an appraiser in the Linn County Assessor's office, reported in a letter to the Board of Review that the subject property's assessment was raised in 2011 because a shed and an open porch were added in 2009. He indicated the unadjusted median assessed value of comparable properties is \$202.65 per square foot and the unadjusted sale prices range from \$185.19 to \$236.76, with a median of \$202.96 per square foot. The properties were all built between 2004 and 2010 and have between 1827 and 2209 total square feet of living area. No adjustments were provided nor an explanation of why adjustments were unnecessary.

The Board of Review submitted a list of four equity comparables to support the assessment. The median assessed value per square foot was roughly \$206. The subject is near the upper end of the range of assessed value per square foot; however, the subject does have a higher quality grade than all the comparables, which contributes to the difference in assessed value per square foot. The following summarizes this data.

Property	TSFLA	Yr Built	Grade	Base Fin	SF Garage	2011 AV	AV PSF
Subject	2323	2009	1+10	1730	1077	\$ 543,346	\$ 233.90
290 Woodland	2120	2008	1-10	1705	984	\$ 415,411	\$ 195.95
550 Chestnut	2408	2007	1+5	1975	942	\$ 592,686	\$ 246.13
3325 Aster	2237	2009	1-5	1585	958	\$ 476,276	\$ 212.91
510 Timber Oak	2517	2008	1-10	1935	1008	\$ 500,554	\$ 198.87

Reviewing the record as a whole, we find Kennells provided proof by a preponderance of the evidence to support their claim of over-assessment. Their assessed value per square foot is higher than the comparable sale prices per square foot provided by both the Kennells and the Board of Review. It is also higher than the cost of construction and site in 2009 even considering the additional improvements. We find the Gallagher comparative market analysis is the most credible evidence of

the subject property's fair market value as of January 1, 2011. Considering her recommended listing price, we find the fair market value to be \$395,646.

### *Conclusion of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the

property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

*Id.* at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). The Kennells failed to prove their property is inequitably assessed under either the tests of *Maxwell* or *Eagle Foods*.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). We find, by a preponderance of the evidence, Kennells’ property is assessed for more than authorized by law. The Gallagher comparative market analysis is the most credible evidence of the subject property’s fair market value is \$395,646 as of January 1, 2011.

The evidence does support Kennells’ claim of over-assessment in the January 1, 2011, assessment. Therefore, we modify the property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2011, is \$395,646, representing \$21,646 in land value and \$374,000 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment as determined by the Linn County Board of Review is modified as set forth herein.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Linn County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 31 day of May 2012.

Jacqueline Rypma  
Jacqueline Rypma, Presiding Officer

Richard Stradley  
Richard Stradley, Board Chair

Karen Oberman  
Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>5/3</u> , 201 <u>2</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier <input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>[Signature]</u>